

**UNITED STATE DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Danny M. Kelly, pro se)
26 School St.)
Chelmsford, MA 01863 Plaintiff)
)
eBay Inc.)
2025 Hamilton Avenue)
San Jose, California 95125 Defendant)
)
and)
to be identified eBay sellers)
)

Civil Action 21-10944-LTS

FILED
IN CLERKS OFFICE

AMENDED COMPLAINT

Participants

The Plaintiff is a resident of the Commonwealth of Massachusetts and a United States Citizen.

The Defendant, eBay, is a duly organized corporation incorporated in the state of Delaware and is based within the United States, California.

Jurisdiction

Jurisdiction comes from request for equity and title 28 § 1331, per federal question. The cause is based upon eBay's fraudulent acts relating to 18 § 1341,

1343 against Plaintiff in violation of RICO act 18 U.S.C. § 1962(d) with civil action under 18 U.S.C. § 1964.

Introduction to Complaint

Buying goods over the Internet is extremely risky due to all the scams. There is no enforcement of the laws and very little a person can do to avoid being scammed since it is typically an Interstate and Foreign commerce action. Thus driving out competition and forcing people to use large trusted sites that provide guarantees. eBay is one of these large site and claims to provide the eBay Guarantee that simply states "Get the item you order or get your money back – its that simply.". However this is not true. When you do not get the item you ordered eBay will not give you your money back based upon the seller simply providing them with a tracking number for a delivery within your zip code that indicates something was delivered¹. No verification of the shipping address, weight, package size or even date of shipment is made. Further if the tracking number is a valid shipping label then a local police report can be made and the sender can get their money back from the shipping company². There is no reason, if eBay is not running a scam, for them not to refund the buyer based

¹ A clear breach of contract on eBay's part. Unfortunately eBay is in California, I am in Massachusetts and we are talking about claims in the \$100 range. There is no practical recourse for breach of contract for eBay's clearly criminal fraud activities.

² This would eliminate a great deal of expenses to the public. e.g., the buyer spends a great deal of time with the shipper trying to get information and filing false complaints that need to be answered including with the local police. When you talk to these people they will tell you it is common and occupies most of their time. I had to contact the USPS multiple times, the local postmaster to get a letter that I was not the

upon the eBay guarantee³. However, eBay collects a listing fee and selling fee from the seller that is about 15% of the gross price whether it is an honest or fraudulent transaction. Thus explaining why eBay has its policy of denying buyers' claims based upon tracking number zip code delivery even though this is in direct conflict with the eBay guarantee. eBay is clearly working with sellers to scam buyers for profit. Racketeering.

Introduction for Amended Complaint

The Court has requested that the original Complaint be amended to correct what it sees as legal deficiencies to allow the case to move forward. Since we have unquestionably corrupt organizations like the FBI and US Attorney who's only concern is "what is in it for me" I am forced to try to correct what they should be doing. Somebody has to protect the public, and I feel obligated, no matter the extreme harm, destruction, false imprisonment, torture, thief, etc. done to me by the government in order to protect the corrupt despots that control the government, I still find it my moral obligation to protect the public and as such bring this case.

This case shows beyond any reasonable doubt that eBay is participating in interstate wire fraud and mail fraud, violating criminal statutes 18 § 1341, 1343. Unfortunately, interstate wire/mail fraud are a criminal, not civil issue. But the

addressee, the mail fraud unit, local police, etc.. A waste of time and money for what everyone knows is just a scam that nothing they can do about.

getting detail information about the package. The shippers will not release shipping information unless you are on the shipping label.

This scam being supported and ran by eBay has been going on for many years now¹⁹ and eBay refuses to correct this blatant scam²⁰. Yet it would be extremely easy to correct. All eBay has to do is refund the money on any "no delivery" claim per eBay's guarantee. The Seller can then place a claim with the shipping company. Assuming, of course, the Seller is the sender for the tracking number. It is not a scam. Any claim by eBay that it is doing this to prevent Buyer scams is pure claptrap. What evidence does eBay have that the Buyer did receive the item? Perhaps the item was stolen. That would still be covered under eBay's guarantee. If it were stolen the shipping company would refund the seller for their loss. If the Buyer runs a scam falsely claiming they did not receive the item they would be taking a great risk in the local police catching them since local police reports would be filed whenever the Buyer lied.

This eBay scam has now been pulled on me a couple of times in the last 3 months and all I can find out is that most people loose their money. The problem is well known, but like normal, organizations like the FBI and US Attorney will not pursue any case unless it is for personal profit. eBay being a large powerful corporation is thus exempt from things like fraud and the law.

¹⁹ Looks to me that it has been a well-known eBay scam since 2016.

²⁰ eBay could require a copy of the shipping label rather then requiring the buyer to prove the tracking number was not address to them. You can only get addressing information for a tracking number if you are the addressee or sender. Then a police report could be made and the seller get their money back. No reason to deny the buyer their money back. If it were fraud on the buyer's behalf, then the local police could take action based upon the thief complaints.

Statement of Facts

1. eBay has the "eBay Money Back Guarantee" that states "Get the item you ordered or your money back – it's that simple.".
2. In February 15th 2021 I ordered a Cuisinart WAF-F20 Double Belgian Maker Waffle Iron, order number 133663717674-178471940 from seller bremethy-49, based in USA.
3. On February 19th I was notified that the Item had been delivered. However, it had snowed that night and could not find any footprints leading to any doors of the house so I called FedEx about the delivery. FedEx told me that the package was not delivered to my address and as such could not tell me any details about the package.
4. On February 20th I filed a claim with eBay for not receiving the item per their guarantee. Case 5261662369
5. On February 26th eBay found in favor of the Seller and closed the case even though the "package" was not delivered to my address.
6. I ordered a Graco Sprayer off eBay, order number 402766832769 on April 1st 2021 from a seller, litaoqw, based in China who had 100% positive rating and was a member since 2/12/2018.
7. On April 7th 2021 I was notified that my item had shipped from China with a tracking number, LY719078522CN, due to arrive by May 13th.

8. When the Sprayer did not arrive on May 13th, I per eBay's instructions contacted the Seller.
9. The Seller did not respond by May 16th, so I wanted to have eBay step in, but eBay said they could not until May 19th.
10. On May 19th, eBay claimed they could not step in until May 25th when I realized that whenever you try to ask ebay for help they always claim you cannot for another 6 days, so I filed a complaint at 9:47AM Ref # 5268937007 anyway.
11. Then at 10:47AM the Seller updated the shipping tracking number with one from USPS, 9400109898642673080987.
12. At 6:36 PM eBay notified me that my item had arrived and I had to take some action in 24 hours or my case would be closed.
13. Recognizing the standard eBay tracking number scam around 8:00PM I tried to update eBay's resolution center with my response about it being an obvious tracking number scam. However, ebay would not allow me to answer claiming technical difficulties. I tried multiple times and different responses, but with no luck.
14. I contacted USPS and verified that the package was not sent to my address and weighed only ½ lb. (It should have been closer to 25lbs.) Open the USPS case #26696158.
15. I then contacted eBay's customer service and explained the situation and provided the USPS case number. They assured me that the case would not be

closed. The "technical difficulty was that I was not allowed to respond before May 25th.

16. On May 20th, 6:38pm the case was closed by eBay claiming I had failed to respond.
17. At 9:28 pm ebay told me they could not grant my appeal and found in favor of the Seller and I would not receive a refund.
18. At 9:29 pm ebay told me my appeal SR# 1-325706746303 was denied. I responded to this email providing the details of the situation. I then submitted a negative review for the seller to warn others of the tracking scam. eBay would never post this negative review.
19. I contacted eBay customer service again and explained the situation. I was assured that my money would be returned to me in a couple of days, they would take down the seller's fraudulent site, etc..
20. May 21st 8:04pm I receive an email from ebay customer service, SR#1-325708909853, claiming they had reviewed my case and were keeping the original finding in favor of the Seller and I would not receive a refund.
21. May 22nd at 6:15pm the final back and forth for SR# 1-325706746303 was received and said I had to upload the proof to ebay about the tracking number to ebay.
22. I then uploaded a pdf of the letter I received from USPS with the information that the package was delivered to Scotty Hollow Drive. Not my address.
23. May 22nd 10:59pm now I was denied the appeal on SR# 1-326298104213.

24. May 24th I received another denial from the SiteUpload SR# 1-327344389745.

25. May 25th seller litaoqw was still listing the Graco sprayer and had 13 sold but now had two negative reports both complaining about never receiving the item. My report was not included.

Allegations

Since the FBI and US Attorney are strictly political organizations that care nothing about their obligations to protect the average person the Internet²¹ has become a home for wire/mail fraud and scamming. This has forced people to look too large known trusted places to deal with purchasing goods. The Defendant is one such organization. They presumably provide guarantees about the trustworthiness of its sellers. e.g. that you will receive the item you order. For this they collect huge fees. However, the Defendant has decided to be part of and encourage wire/mail fraud with their false guarantees to and abuse of buyers who have been subjected to wire/mail fraud. Willfully racketeering with sellers to commit wire/mail fraud on unsuspected buyers such as the Plaintiff in violation of RICO laws.

Plaintiff alleges that the Defendant has intentionally, willingly, wantonly and culpably violated RICO laws by conspiring with sellers to commit wire/mail fraud and fraudulently steal monies from Plaintiff. Plaintiff is requesting

²¹ www and email

declaratory, compensatory, emotional, and punitive damages in an amount to be determined by the Court.

The Plaintiff in the above-entitled cause demands a trial by jury.

7/18/2021

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